



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

January 4, 1991

Mr. James T. Russell
Administrative Assistant
27th Judicial District
Bell & Lampasas Counties
P.O. Box 540
Belton, Texas 76513

OR91-008

Dear Mr. Russell:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10334.

You have received a request for the records in a child abuse case in which the defendant was placed on deferred adjudication probation for 8 years. The request is from the child's grandfather who is not the legal guardian of the child. You seek our decision as to the public availability of the following documents:

1. Texas Department of Human Services (DHS hereinafter) Notification to Law Enforcement Agency of Child Abuse/Neglect Report;
2. Witness statements given to the Harker Heights Police Department;
3. Offense report, including a narrative supplement, of the Harker Heights Police Department.

You assert the confidentiality of these documents based on section 3(a)(1) of the Open Records Act which protects from disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." In that regard, you rely on section 34.08 of the Texas Family Code which provides in pertinent part:

- (a) Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed

In an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.

Subsections (b) and (c) which concern adoptive parents are not relevant to this decision.

The DHS report and the police investigation report are reports "used or developed in an investigation" under chapter 34 of the Family Code; see § 34.02(c). Thus, they are confidential based on section 34.08. Accordingly, the DHS report and the police report are excepted from required disclosure pursuant to section 3(a)(1) of the Open Records Act. See Open Records Decision No. 440 (1986); see also Open Records Decision No. 176 (1977).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-008.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Opinion Committee

KHG/le

Ref.: ID# 10334, 10373

Enclosure: Open Records Decision No. 440

cc: Billy L. Pirkle
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